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|                                     |   |                 |
|-------------------------------------|---|-----------------|
| In re Application of                | : | DECISION ON     |
| McLAUGHLIN et al.                   | : |                 |
| Application No.: 09/646,141         | : | PETITION UNDER  |
| PCT No.: PCT/US98/08824             | : |                 |
| Int. Filing Date: 05 June 1997      | : | 37 CFR 1.182    |
| Priority Date: 14 March 1997        | : |                 |
| Attorney's Docket No.: 3699-2-PUS.  | : | AND             |
| For: COPY PROTECTABLE OPTICAL MEDIA | : |                 |
| DEVICE AND METHODOLOGY THEREFOR     | : | 37 CFR 1.137(b) |

This decision is in response to applicants' "PETITION TO CORRECT AN OBVIOUS ERROR PURSUANT TO PCT RULE 91.1 AND TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION PURSUANT TO 37 CFR 1.182" filed 13 September 2000, which is being treated as petition under 37 CFR 1.182 and 37 1.137(b), respectively.

**I. PETITION UNDER 37 CFR 1.182**

On 13 September 2000, applicants submitted a petition requesting that the 1)U.S. be designated and 2) to revive the U.S. national stage application under 37 CFR 1.137(b). The petition requesting that the U.S. be designated has been treated as a request for rectification of an obvious error.

On 01 May 1998, applicant submitted to the United States Receiving Office (RO/US), *inter alia*, a Request, description, claims, abstract, drawings, and a Fee calculation sheet. In Box No. V, Designation of States, applicants did not check the box next to the United States of America.

The Request, however, identified of McLAUGHLIN, Mark; LACKRITZ, Hiliary S.; SMITH, Jerry; WELDON, James; and MERRY, J. Bradford as applicant/inventors with these persons being applicants for the purposes of the United States only is an indication that applicants intended to designate the United States of America. In view of this notation, the petition filed 13 September 2000 for the acceptance by the RO/US of the request to correct the designations to include the United States in the Request filed 05 June 1997 is appropriate under PCT Rule 91.1.

The \$130.00 petition fee for 37 CFR 1.182 has been charged to the Deposit Account No. 19-1970 as authorized in transmittal letter filed on 13 September 2000.

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

Accordingly, applicants may enter into the US national stage under 37 USC 371.

## **II. PETITION UNDER 37 CFR 1.137(b)**

On 05 June 1997, this international application was filed, claiming an earliest priority date of 14 March 1997.

On 14 October 1998, a Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 14 September 1999. This international application became abandoned with respect to the United States at midnight on 14 September 1999 for failure pay the basic national fee.

On 13 September 2000, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, and an executed declaration.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.


Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

## **CONCLUSION**


The petition under 37 CFR 1.182 is **GRANTED**

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing, including according the application a 35 U.S.C. 371 date of 13 September 2000.



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